

**SUPERIOR COURT
OF THE
STATE OF DELAWARE**

T. HENLEY GRAVES
RESIDENT JUDGE

SUSSEX COUNTY COURTHOUSE
ONE THE CIRCLE, SUITE 2
GEORGETOWN, DE 19947

January 17, 2006

Gary J. Johnson
Sussex Correctional Institution

23203 DuPont Boulevard
P. O. Box 500
Georgetown, DE 19947

RE: Defendant ID No. 9806008595 (R3)

Dear Mr. Johnson:

On January 12, 2006, the Court received your third Motion for Postconviction Relief. It is denied.

In your first Motion for Postconviction Relief, you alleged your attorney was ineffective. You also made complaints concerning mug shots or police photographs that were used in your trial. That application was denied by the Court and affirmed by the Supreme Court. *Johnson v. State*, Del. Supr., No. 617-2002, Walsh, J. (March 6, 2003) (ORDER).

Thereafter, you filed your second Motion for Postconviction Relief which was determined to be procedurally barred on April 28, 2003. *Johnson v. State*, Del. Super. No. 9806008595(R2) Graves, J. (April 28, 2003). In my April 28, 2003 decision, I made it clear that you were procedurally barred because the mandate from the Supreme Court concerning the affirming of your conviction was dated January 7, 2000; and therefore, the procedural bar rule, Superior Court Rule 61(i)(1), was applicable.

It was also barred because it was a repetitive Motion and not warranted in the interest of justice because it was a repackaging of issues that had been previously raised. Superior Court Rule 61(i)(2).

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And it was barred under Rule 61(i)(4) because the issues concerning identification had been previously adjudicated at trial and on appeal. There was no need to reconsider it in the interest of justice.

In your present application, you renew complaints that your trial attorney was ineffective and you raise claims concerning the police photograph. Finally, you argue that I was ineffective.

For the same reasons noted in the Court's decision of April 28, 2003, the present Motion for Postconviction Relief is procedurally barred under Rule 61(i)(1) as it comes three years too late; and Rule 61(i)(2) because it is repetitive; and Rule 61(i)(4) because you attempt to repackage and revisit that which has been previously adjudicated.

The Defendant's third Motion for Postconviction Relief is dismissed as being procedurally barred.

IT IS SO ORDERED.

Yours very truly,

T. Henley Graves

THG:baj
cc: Prothonotary
Department of Justice